

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-60 are pending. Claim 30 has been amended to correct a minor spelling error.

The indication of allowable subject matter with respect to claims 1-30, 32-42, 44-48, 50-54, and 56-60 is noted with appreciation.

Claims 31, 43, 49, and 55 are not anticipated by *Gulick* (US Patent 6,968,460)

The rejection of claims 31, 43, 49, and 55 under 35 USC 102(e) as being anticipated by *Gulick* is hereby traversed. A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. Claim 31 is patentable over *Gulick* because the reference fails to disclose or suggest every element of claim 31.

Gulick fails to disclose or suggest the “authorizing the consuming process to access the buffer while precluding other processes from accessing the buffer” as claimed in claim 31.

The PTO asserts that *Gulick* illustrates “authorizing to access the buffer (the receiving of the REQ signal is an authorization to access the entropy register and since there is only one REQ line other processes are precluded from accessing the entropy register)” at FIG. 14A. This is incorrect. *Gulick* describes FIG. 14A as illustrating a random number generator 455A including “an entropy control unit 1415 coupled to receive a request over a request line (REQ) from the processor 805A for a random number over output lines (RN).” *Gulick* at column 22, lines 36-39.

First, *Gulick* fails to disclose or suggest authorizing a consuming process to access the buffer because *Gulick* does not appear to describe authorization of a process accessing a buffer. In contrast, the PTO asserts that the REQ signal is an authorization to access the entropy register; however, assuming *arguendo* that the REQ signal is an authorization to access a buffer, it is the entropy control unit, and not a consuming process as claimed, which is authorized by the REQ signal to access a buffer. *Gulick* fails to disclose authorization of a consuming process, which requests random bits, to access a buffer. For at least this reason, withdrawal of the rejection is respectfully requested.

Second, *Gulick* fails to disclose or suggest precluding other processes from accessing the buffer because there is no disclosure or suggestion of precluding other processes from accessing the buffer in *Gulick*. *Gulick* does not appear to describe the preclusion of other processes from accessing the buffer because there is only one REQ line as asserted. To the contrary, *Gulick* appears to describe the REQ line as causing the entropy control unit 1415 to provide a random number from the entropy register 1410 over the output lines (RN) without describing preclusion of other processes. For at least this reason, withdrawal of the rejection is respectfully requested.

Third, the PTO assertion appears to be based on an inherency argument regarding operation of the REQ signal. This is incorrect as *Gulick* fails to disclose that the REQ line operates to preclude other processes from accessing the entropy register.

In order to rely upon a theory of inherency, the PTO is required to provide a factual basis and/or technical reasoning reasonably supporting the determination that the allegedly inherent characteristic **necessarily** flows from the prior art teaching. See *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). “The mere fact that a certain thing **may** result from a given set of circumstances **is not sufficient**.” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ3d 1949, 1950-51 (Fed. Cir. 1999) (emphasis added). “A claim limitation is inherent in the prior art if it is necessarily present in the prior art, not merely probably or possibly present.” *Rosco v. Mirror Lite*, 304 F.3d 1373, 1380 (Fed. Cir. 2002). The PTO has failed to support the inherency assertion regarding the statement that “since there is only one REQ line other processes are precluded from accessing the entropy register.” For at least this reason, withdrawal of the rejection is respectfully requested.

Based on each of the foregoing reasons, claim 31 is patentable over *Gulick* and withdrawal of the rejection is respectfully requested.

Claims 43, 49, and 55 are patentable over *Gulick* for at least reasons similar to those advanced above with respect to claim 31 and withdrawal of the rejection of claims 43, 49, and 55 is respectfully requested.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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